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OCT 05 2004

OFFICE OF PETITIONS

In re Application of :
Orlowski, et al. : DECISION ON PETITION
Application No. 09/428,982 :
Filed: October 28, 1999 :
Atty. Dkt. No.: P3091 :
:

This is a decision on the petition renewed under 37 CFR 1.137(b), filed September 1, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

This application became abandoned September 6, 2003 for failure to timely reply to the final Office action re-mailed June 5, 2003. The final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed January 6, 2004. A petition under 37 CFR 1.137(a) was filed March 15, 2004 and dismissed July 8, 2004. A petition under 37 CFR 1.137(b) was filed August 17, 2004 and dismissed September 1, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The present petition lacks requirement (1) set forth above.

As to item (1), petitioner has failed to submit a proper response to the outstanding Office action. As indicated in the decision on petition mailed decision mailed July 8, 2004 and reiterated in the decision mailed September 1, 2004, the amendment submitted March 15, 2004 fails to place the application in condition for allowance. Thus, it is not a proper response to the outstanding Office action.

Any renewed petition must be accompanied by a proper response to the outstanding Office action. A response may be an amendment that places the application in condition for allowance, a request for continued examination, including, *inter alia*, a submission and required fee, a Notice of Appeal (and appropriate fee), or a continuation application (and appropriate fee).

Further correspondence with respect to this matter should be addressed as follows:

By mail:

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Telephone inquiries concerning this matter may be directed to
the undersigned at (571) 272-3205.


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